

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

BMO HARRIS BANK N.A.)	
f/k/a HARRIS N.A.,)	
)	
Plaintiff,)	
)	
v.)	No. 1:20-cv-00170-JPH-MPB
)	
ROAD STAR TRANSPORT INC.,)	
RANA SINGH,)	
)	
Defendants.)	

ORDER ON MOTION TO ENTER DEFAULT JUDGMENT

On March 16, 2020, on Plaintiff BMO Harris Bank's motion, the clerk entered default against Defendant Road Star Transport. Dkt. 17. The Bank has filed a motion for default judgment against Road Star Transport, Inc. in the amount of \$217,030.52. Dkt. 21.

The Bank maintains two counts: (1) breach of contract against Road Star, and (2) breach of contract against Rana Singh. Dkt. 1.¹ However, the Bank seeks default judgment against only Road Star. Dkt. 21; dkt. 21-2. The Bank's claim against Mr. Singh therefore remains, making final judgment under Federal Rule of Civil Procedure 58 inappropriate. *See Smart v. Local 702 Intern. Broth. of Elec. Workers*, 573 F.3d 523, 525 (7th Cir. 2009) ("A final judgment is one that resolves all claims against all parties.").

¹ A third count, replevin against both defendants, has been dismissed. Dkt. 15.

The Bank has not addressed whether a partial final judgment under Federal Rule of Civil Procedure 54(b) is appropriate. In multi-defendant cases, a default judgment against one defendant may be improper if it could result in inconsistent judgments. *State Farm Mut. Auto. Ins. Co. v. Jackson*, 736 F.Supp. 958, 961 (S.D. Ind. 1990) (citing *Marshall & Ilsley Trust Co. v. Pate*, 819 F.2d 806 (7th Cir. 1987)). This principle applies when the "theory of recovery is one of joint liability or when the nature of the relief is such that [it] is necessary that judgments against the defendants be consistent." *Id.* Granting damages prematurely risks inconsistency because if damages are entered against a defaulting defendant and the plaintiff later prevails against the non-defaulting defendants, then damages will need to be proven against the latter, and the second award may differ from the first. *In re Uranium Antitrust Litig.*, 617 F.2d 1248, 1262 (7th Cir. 1980).

The Bank's motion for default judgment is therefore **DENIED without prejudice** to being refiled with a brief addressing whether partial final judgment under Rule 54(b) may be entered.

SO ORDERED.

Date: 6/2/2020



James Patrick Hanlon
United States District Judge
Southern District of Indiana

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